  
KEVIN B. DOWLING 3206  
ATTORNEY AT LAW  
23 Euclid Street  
P.O. Box 373  
Woodbury, New Jersey 08096  
(856) 845-0777  
Attorney for Debtors

U.S. BANKRUPTCY COURT  
FILED  
CAMDEN, NJ

03 MAY 28 AM 11:16

JAMES J. VALENZONA  


In Re: : UNITED STATES BANKRUPTCY COURT  
: DISTRICT OF NEW JERSEY  
CARLOS and CAROL MARTINO, :  
: Case No. 01-17893 (JHW)  
Debtors : Chapter 13  
: JUDGE WIZMUR  
: NOTICE OF MOTION TO REDUCE  
: CLAIM OF CREDITOR, ALLIANCE  
: MORTGAGE CORP.

TO: William M.E. Powers, III  
737 Stokes Road  
P.O. Box 1088  
Medford, New Jersey 08055

Isabel Balboa, Standing Trustee  
Cherry Tree Corporate Center  
535 Route 38 East, Suite 580  
Cherry Hill, New Jersey 08003

PLEASE TAKE NOTICE that on the <sup>30<sup>th</sup></sup>~~25<sup>th</sup>~~ day of June, 2003 at 10:00 o'clock in the forenoon or soon thereafter as counsel may be heard, the undersigned, attorney for debtors, Carlos and Carol Martino will apply to the United States Bankruptcy Court located at 15 North 7<sup>th</sup> Street, Camden, New Jersey seeking an order reducing the proof of claim of secured creditor, Alliance Mortgage Corporation. In support of said motion counsel shall rely upon the attached certification by debtor.

DATED: May 28, 2003

  
KEVIN B. DOWLING  
ATTORNEY FOR DEBTORS

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JAMES J. WALDRON

In Re: : UNITED STATES BANKRUPTCY COURT  
: DISTRICT OF NEW JERSEY  
CARLOS and CAROL MARTINO, :  
: Case No. 01-17893 (JHW)  
: Chapter 13  
Debtors :  
: JUDGE WIZMUR  
: CERTIFICATION IN SUPPORT OF  
: MOTION TO REDUCE CLAIM  
: OF SECURED CREDITOR, ALLIANCE  
: MORTGAGE CORP.

Carol Martino, of full age, certifies as follows:

1. I am one of the debtors in the above-captioned bankruptcy action.

2. I am making this certification in support of the Motion to reduce the claim of secured creditor, Alliance Mortgage Corporation. Attached and made a part of this Certification are various reports from the Trustee and Alliance Mortgage Corporation regarding the amount that is due and owing at this time. I have also attached an amortization schedule which I have prepared regarding this matter.

3. Attached and made a part of this Certification as "Appendix A" is a final report from the Trustee under Chapter 13 case number 98-12331(jhw) which was prepared on or about January 8, 2001. At that time it appeared that Alliance Mortgage Corporation had a balance due of \$1,194.98.

4. Attached and made a part of this Certification as "Appendix B" is a copy of a five-year shortage report that was prepared with regard to this matter. Please note that in 2001 it appeared that payments were to be made in the sum \$9,984 for 2001 with additional late fees of \$1,722. I have also attached a copy of the proof of claim that was submitted some time ago by Alliance Mortgage Corporation. That proof

of claim indicated certain arrears as well as certain late fees and attorney's fees associated with a foreclosure action that was filed against our property. As the Court can see, there are monies indicated in the proof of claim that are erroneous.

5. Specifically, Alliance Mortgage Corporation indicated an amount of 11 payments in arrears totaling \$7,928.03. It is our position that all monies paid to Alliance Mortgage Corporation were up to date through December 2000. Secondly, it appears that there is an escrow shortage not recovered by payment adjustment in the sum of \$4,156.00. I do not understand this escrow shortage as we have constantly made payments to Alliance Mortgage which included escrow payments as well as principle and interest payments. There are legal fees and foreclosure costs of \$2,110.90, which I question as being extremely high, especially since previous proofs of claim have also included legal fees and foreclosure costs. There appears to be inspection appraisal of NSF check charges in the amount of \$520.30, which again is questionable given the fact that I have already been charged with late fees. I don't understand why there would be any other type of appraisal or inspection fees. I would want to see some type of itemization and proof of those particular claims.

6. Also, there is interest to amortize arrears over the plan in the sum of \$6,719.00. Alliance Mortgage Corporation is a secured creditor and as a secured creditor it is my understanding that they get paid initially before all other creditors aside from administrative costs. I don't understand why there would be such high post-petition arrears over the plan since the arrears would only be paid in the beginning part of the plan. Furthermore, I submit that Alliance Mortgage Corporation should have already been paid off so therefore there would be no reason for interest at this time.

7. I am asking the Court to review in its entirety the proof of claim submitted by Alliance Mortgage Corporation.

The above statements are true and correct. I am aware that  
if any of the above statements are false, I am subject to  
punishment.

  
CAROL MARTINO

  
CARLOS MARTINO

# APPENDIX A

BANKRUPTCY COURT  
FILED  
CAMDEN, NJ

01 JAN 19 PM 2:00  
UNITED STATES BANKRUPTCY COURT

IN THE MATTER OF:

PAGE 1

BY:

DEPUTY CLERK

CARLOS & CAROL MARTINO  
537 WESLEY AVENUE

NATIONAL PARK, NJ 08063

DEBTOR (S)

) CHAPTER 13  
) CASE NO. 9812331 JHW  
)  
) DATE FILED: 03/11/1998  
) DATE CONFIRMED: 05/26/1999  
) DATE CONCLUDED: 01/08/2001

STANDING CHAPTER 13 TRUSTEE'S FINAL REPORT  
DISMISSED AFTER CONFIRMATION

Pursuant to 11 U.S.C. Section 1302(b)(1) and Rule 2015(2), the Trustee has maintained detailed reports of receipts and disbursements which are as follows

Claim Creditor's Name	Amount Allowed	Paid to Date	Balance Due
<b>SECURED</b>			
001 INTERNAL REVENUE SERVICE	11,297.67	9,515.70	1,781.97
003 STATE OF NEW JERSEY	8,242.06	6,942.03	1,300.03
006 ALLIANCE MORTGAGE COMPANY	150.00	0.00	150.00
	19,689.73	16,457.73	84%
<b>PRIORITY</b>			
002 INTERNAL REVENUE SERVICE	48,395.42	0.00	48,395.42
004 STATE OF NEW JERSEY	314.55	0.00	314.55
	48,709.97	0.00	0%
<b>DEBTOR ATTORNEY</b>			
000 KEVIN DOWLING, ESQ.	1,100.00	1,100.00	0.00
	1,100.00	1,100.00	100%
<b>OTHER SECURED DEBT</b>			
005 ALLIANCE MORTGAGE COMPANY	1,194.98	0.00	1,194.98
	1,194.98	0.00	0%
<b>TOTAL RECEIPTS</b>			
18,342.97	<b>DISBURSED</b>	<b>TRUSTEE FEES</b>	<b>CASH ON HAND</b>
	17,557.73	785.24	0.00

UNITED STATES BANKRUPTCY COURT

IN THE MATTER OF:

PAGE 2

CARLOS & CAROL MARTINO  
537 WESLEY AVENUE

NATIONAL PARK, NJ 08063

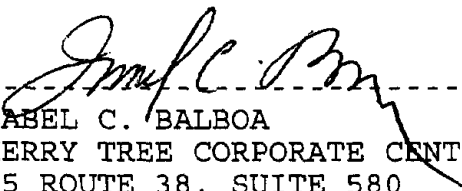
DEBTOR (S)

) CHAPTER 13  
) CASE NO. 9812331 JHW  
)  
) DATE FILED: 03/11/1998  
) DATE CONFIRMED: 05/26/1999  
) DATE CONCLUDED: 01/08/2001

STANDING CHAPTER 13 TRUSTEE'S FINAL REPORT  
DISMISSED AFTER CONFIRMATION

WHEREFORE, the Trustee prays that a Final Decree be entered discharging him/her as Trustee and releasing the Trustee and the Trustee's surety from any and all liability on account of the within proceedings, and closing the estate, and for such other relief as is just.

Pursuant to FRBP 5009, I certify the case has been fully administered.

  
-----  
ISABEL C. BALBOA  
CHERRY TREE CORPORATE CENTER  
535 ROUTE 38, SUITE 580  
CHERRY HILL, NJ 08002

# APPENDIX B



Five year Ammorization  
(1997 - 2001)1997

Principal Balance	\$35,368.00
Interest	%15.50
Mortgage Insurance	\$176.76
Hazard Insurance	\$297.00
Property taxes	\$ 2,100.00

## Monthly Breakdown

Principal and Interest	\$ 528.00
Mortgage Insurance (6%)	14.00
Hazard Insurance	24.00
Property Taxes	<u>175.00</u>
Total Monthly Payment	727.00

1998

Principal Balance	\$35,139.00
Interest	%15.50
Mortgage Insurance	176.76
Hazard Insurance	1,156.00
Property taxes	2,200.00

## Monthly Breakdown

Principal and Interest	\$ 538.00
Mortgage Insurance (6%)	\$ 14.00
Hazard Insurance	\$ 96.00
Property Taxes	<u>\$ 183.00</u>
Total Monthly Payment	\$ 817.00

1999 - 2001

Principal Balance	\$35,368.00
Interest	%15.50
Mortgage Insurance	176.76
Hazard Insurance	1,156.00
Property taxes	2,500.00

## Monthly Breakdown

Principal and Interest	\$ 528.00
Mortgage Insurance (6%)	\$ 14.00
Hazard Insurance	\$ 208.00
Property Taxes	<u>\$ 175.00</u>
Total Monthly Payment	\$ 832.00

**Five Year Shortage Report**  
(1997 - 2001)

**1997 - 2000**

Amount Paid	\$ 720.73
	<u>* 48</u>
	\$34,595.04

Amount That should have been(1997)	\$ 727.00
	<u>* 12</u>
	\$ 8,724.00

(1998)	\$ 817.00
	<u>* 12</u>
	9804.00

(1999 - 2000)	\$ 832.00
	<u>* 24</u>
	19,968.00

(2001)	\$ 832.00
	<u>* 12</u>
	9,984.00

TOTAL YEARS 1999 to 2000	\$38,496.00
minus amount paid	<u>34,595.00</u>
amount Short	3,901.00

total amount due for 2001	\$9,984.00
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additional late fees	28.70 * 60 =	1,722
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# APPENDIX C

Case No: 01-17893 JHW

Loan No: 954053

### ITEMIZATION OF CLAIM

Total Debt at filing:					
Amount	Description				
\$27,264.16	Principal Balance				
\$3,517.28	Interest from last paid installment				
\$445.13	Late charges				
\$5,548.44	Escrow advance				
\$2,110.96	Legal fees and foreclosure costs, if any				
\$520.34	Other - (Inspection, appraisal, or NSF check charges)				
\$39,406.31	Total Debt (Note: Creditor may subsequently advance funds under mortgage)				
\$17,464.54	Interest 1325(a)(5)(B)(ii) to amortize over plan (Applicable where total debt plan)				
\$66,870.85	Total				
Arrears at filing:					
Quantity	Description	From (Mo/Yr)	Through (Mo/Yr)	Amt/Mo	Extended
11	Payment(s)	Oct-00	Aug-01	\$720.73	\$7,928.03
	Payment(s)				\$0.00
	Payment(s)				\$0.00
	Payment(s)				\$0.00
	Payment(s)				\$0.00
	Payment(s)				\$0.00
11	Late charge(s)	Oct-00	Aug-01	\$28.83	\$317.13
	Late charge(s)				\$0.00
	Late charge(s)				\$0.00
	Late charge(s)				\$0.00
	Late charge(s)				\$0.00
	Late charge(s)				\$0.00
	Late charges incurred prior to due date				\$128.00
	Escrow shortage not recovered by payment adjustment				\$4,156.00
	Legal fees and foreclosure costs, if any				\$2,110.96
	Other - (Inspection, appraisal, or NSF check charges)				\$520.34
	Pre-petition arrears				\$15,160.40
	Interest to amortize arrears over plan - Rake v. Wade				\$6,719.00
	Sum to cure arrears				\$21,879.40

# APPENDIX D

BANKRUPTCY CASE NO. 98-12331

POST-PETITION PAYMENT HISTORY  
ON THE NOTE AND MORTGAGE

Recorded, in Gloucester County, in Book at Page  
Property Address: 527 Wesley Avenue, National Park, NJ 08063-  
Mortgage Holder: Union Planters National Bank  
Mortgagor(s)/Debtor(s): Carlos J. Martino

POST-PETITION PAYMENTS (Petition filed on March 11, 1998)

Amount Due		Date Payment Was Due	How Payment Was Applied (Mo./Yr.)	Amount Received	Date Payment Received
1.	\$749.56	4/1/98	4/98	\$720.73	4/29/98
2.	\$749.56	5/1/98	5/98	\$750.00	6/26/98
3.	\$749.56	6/1/98	6/98	\$795.00	7/08/98
4.	\$749.56	7/1/98	7/98	\$750.00	8/10/98
5.	\$749.56	8/1/98	8/98	\$750.00	9/10/98
6.	\$749.56	9/1/98	9/98	\$750.00	9/29/98
7.	\$749.56	10/1/98	10/98	\$1,500.00	11/09/98
8.	\$749.56	11/1/98	11/98		
9.	\$749.56	12/1/198	12/98	\$750.00	12/08/98
10.	\$749.56	1/1/99	1/99	\$750.00	1/15/99
11.	\$749.56	2/1/99	2/99	\$750.00	2/08/99
12.	\$749.56	3/1/99	3/99	\$750.00	3/23/99
13.	\$749.56	4/1/99	4/99	\$750.00	5/13/99
14.	\$749.56	5/1/99	5/99	\$750.00	5/21/99
15.	\$749.56	6/1/99	6/99	\$1,500.00	7/12/99
16.	\$749.56	7/1/99	7/99		
17.	\$749.56	8/1/99	8/99	\$750.00	8/27/99
18.	\$749.56	9/1/99	9/99	\$1,500.00	11/16/99
19.	\$749.56	10/1/99	10/99		
20.	\$749.56	11/1/99	11/99	\$750.00	1/10/00
21.	\$749.56	12/1/99	12/99	\$750.00	3/14/00

Amount Due		Date Payment Was Due	How Payment Was Applied (Mo./Yr.)	Amount Received	Date Payment Received
22.	\$749.56	1/01/00		\$1,500.00	3/28/00 *NSF*
23.	\$749.56	2/01/00	01/00	\$1,000.00	5/11/00
24.	\$749.56	3/01/00		\$942.00*	6/01/00 - (\$750)*NSF*
25.	\$749.56	4/01/00		\$1,500.00	6/14/00 *NSF*
26.	\$749.56	5/01/00			
27.	\$749.56	6/01/00			
28.	\$749.56	7/01/00			
29.	\$749.56	8/01/00			
30.	\$749.56	9/01/00			
31.	\$749.56	10/01/00			
32.	\$749.56	11/01/00			
33.	\$749.56	12/01/00			
34.					
35.					
36.					

Due 02/00 - 12/00 @ 749.56 = \$8,245.16

Less unapplied funds - 6,000.00 (check# 1466)

Less unapplied funds - 750.00 (check# 1471)

Default through 12/00 - \$1,495.16 (after unapplied funds)

**KEVIN B. DOWLING 3206**  
**ATTORNEY AT LAW**  
**23 Euclid Street**  
**P.O. Box 373**  
**Woodbury, New Jersey 08096**  
**(856) 845-0777**  
**Attorney for Debtors**

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JAMES J. WALDRON

IN RE:

**CARLOS and CAROL MARTINO**

**Debtors.**

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEW JERSEY**

**CASE NO: 01-17893(jhw)**

**CHAPTER 13**

**PROOF OF MAILING**

A copy of the within Notice of Motion to Reduce Claim of Creditor, Alliance Mortgage Corporation, Certification in support of Motion, supporting Exhibits and proposed Order have been filed with the United States Bankruptcy Court, United States Post Office and Court House, PO Box 2067, Camden, New Jersey 08101-2067.

**PROOF OF MAILING:** On May 28, 2003, I, the undersigned, sent by Regular mail the Notice of Motion to Reduce Claim of Creditor, Alliance Mortgage Corporation, Certification in support of Motion, supporting Exhibits and proposed Order to the following:

William M.E. Powers, III, Esquire  
737 Stokes Road  
PO Box 1088  
Medford, New Jersey 08055

Isabel Balboa, Trustee  
Chapter 13 Standing Trustee  
Cherry Tree Corporate Center  
535 Route 38, Suite 580  
Cherry Hill, New Jersey 08002

I certify that the foregoing statements made by me are true, I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

*Kathryn Niedzwiedek*  
Kathryn A. Medzwiadek



ORDER

hereby ORDERED.

(PAGE 2)

Debtor: CARLOS MARTINO and CAROL MARTINO

Case No: 01-17893(JHW)

Caption of Order: ORDER TO REDUCE

Upon Consideration of the Notice of Motion to Reduce the Claim of Secured Creditor, Alliance Mortgage Corporation and the Certification in support thereof filed by Kevin B. Dowling, Esquire, Attorney for Debtors, Carlos and Carol Martino, and good cause appearing therefore, the claim by secured creditor, Alliance Mortgage Corporation against debtors is hereby reduced to the amount of \$\_\_\_\_\_.